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Chairperson Williams and committee members thank you for holding a hearing today on AB 655.

AB 655 has been introduced to aid in the commencement of a \$160 million development in downtown Milwaukee that is expected to create 4,000 jobs and add an estimated \$12-\$18 million dollars to local tax collections.

This project has been in the works for a number of years. While it has extensive support from the public, labor groups and city and county elected officials, it has been delayed by threatened legal action attempting to resurrect unfounded claims settled long ago by the Wisconsin Supreme Court. Although frivolous in nature, the threat of legal action has halted the project and prevented the badly needed jobs from being created.

AB 655 takes into consideration laws, legal opinions and court rulings dating back to over a century ago and uses these facts to clarify that the shoreline as established in 1913 was done so legally within the confines of the state Constitution. The mere fact that someone may not agree with the law does not make that law any less legal.

Opponents of the proposed development are trying to cloud the issue by claiming their dispute over the project revolves around uncertainty over the public trust doctrine. But what they are really disputing is the Legislature's authority to act within the guidelines of the public trust; an issue that was settled in a 1927 State Supreme Court Decision which cited an 1892 U.S. Supreme Court Case among other cases, to back up its findings.

To paraphrase the somewhat lengthy 1927 Supreme Court ruling, the court established:

- 1) That the Legislature is the trustee of the public trust and has the authority and responsibility to not only protect but to promote the public trust.
- 2) Statutes properly enacted by the Legislature that do not violate the provisions of the federal and state Constitutions are supreme and cannot be interfered with by the courts.
- 3) The legislation created in 1909 and amended in 1923 that ultimately led to the ceding of submerged lands to a private entity for private use was done so legally within the confines of the federal and state Constitutions because it was done so while serving the interests of the public.
- 4) Once the court determines that the transfer is legal vested rights are created and remain in effect until the Legislature either abrogates or modifies them.

The land on which the proposed development will be situated was part of a larger project that was in the public interest. The setting of the boundary in 1913 allowed for the construction of the Milwaukee Harbor, a project that was determined to be in the public interest. Therefore any claim that a private development cannot take place on this land is baseless under the Supreme Court ruling.

This bill will amend and restate an existing law, adopted in June of last year, declaring the boundary of about two miles of the shore of Lake Michigan at Milwaukee to be at a line set by the City of Milwaukee in 1913. It states that that line, which was set by a survey and agreement that was recorded in the real estate records in 1914, both is and was the correct shoreline boundary. The law will also say that the Legislature ratifies this boundary line in this location because the line has been respected by all parties, including the State and its agencies, since it was established in 1913.

The Legislature's authority is further confirmed by the court when it ruled: "The trust reposed in the state is not a passive trust; it is governmental, active and administrative. Representing the state in its legislative capacity, the Legislature is fully vested with the power of control and regulations" ... "the trust being both active and administrative, requires the lawmaking body to act in all cases where action is necessary." "A failure so to act, in our opinion, would have amounted to gross negligence and a misconception of its proper duties and obligations in the premises."

It is irrefutable, based on the 1927 Supreme Court ruling, that the Legislature has the authority to enact legislation affecting the public trust.

Furthermore, the dispute of where the shoreline may or may not have been portrayed on any map in the past is irrelevant because the court ruling also stated that "the shores of Lake Michigan can be changed when it becomes necessary, to realize a vast enterprise purely public in its nature."

The transfer of the land in question was not the sole basis for the 1909 and 1923 legislation that respectively established and affirmed the 1913 shoreline. Rather it was part and parcel of a larger scheme which was to construct the Milwaukee Harbor which was deemed to be of public interest.

This bill does not affect the shore line along Lake Michigan in any other location, including any other areas in the City of Milwaukee. Nor does it alter in any way, the shoreline that has been recognized and relied upon as the legal shoreline in this area for the past 100 years.

Passage of AB 655 does not guarantee that legal action will not be initiated by the opponents of the development. The fact is, under our legal system, anybody can make any claim regardless of merit. What this bill can do however, is to minimize to the greatest extent possible, further delay and stalling through a protracted legal suit.

With large developments of this size around the state and in Milwaukee being nearly non-existent, and unemployment levels remaining high in Milwaukee neighborhoods, this bill helps foster job creation to the benefit of the citizens of Wisconsin. I strongly urge members of this committee to approve AB655 as quickly as possible.

I am happy to address any questions committee members may have.